

REMARKS

Upon entry of this response, claims 1, 4-7, and 13-17 are pending in the above-identified application.

Rejections under Section 103

Claims 1, 4-7, and 13-17

Applicants respectfully request reconsideration of the rejection of claims 1, 4-7, and 13-17 under 35 U.S.C. § 103(a) as being unpatentable over EP 997960 (EP '960). Each of the claims recites an electrolyte containing a main nonaqueous solvent selected from the group consisting of ethylene carbonate, propylene carbonate, diethyl carbonate, methyl ethyl carbonate, and any mixture thereof. EP '960 fails to disclose this feature, rather, EP '960 requires γ -butyrolactone (BL) as the main solvent.

According to the present invention, there is provided a nonaqueous electrolyte secondary battery, comprising an electrode group including a positive electrode containing a material for absorbing-desorbing lithium ions, and a separator arranged between the positive electrode and the negative electrode, a nonaqueous electrolyte impregnated in the electrode group and including a nonaqueous solvent...wherein the nonaqueous solvent contains γ -butyrolactone in an amount larger than 50% by volume and not larger than 95% by volume....

EP '960, Paragraph 6, see also, Claim 2. While the EP '960 reference may disclose use of ethylene carbonate, propylene carbonate, diethyl carbonate, and methyl ethyl carbonate as auxiliary solvents, it clearly does not contemplate the use of any of these compounds as the main solvent as disclosed in the present application.

"*A prima facie case of obviousness may also be rebutted by showing that the art, in any material respect, teaches away from the claimed invention.*" MPEP § 2144.05, *In re Geisler*, 116 F.3d 1465, 1471, 43 U.S.P.Q.2d 1362, 1366 (Fed. Cir. 1997). EP '960 teaches away from the present application by disclosing that, "[t]he BL content of the mixed nonaqueous solvent should fall within a range of larger than 50% by volume...If the BL content is not more than 50% by volume, a gas is likely to be generated under

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high temperatures." EP '960, Paragraph 44. The generation of gas at high temperature is a well-known and highly undesirable problem in the relevant art. The present application is nonobvious in light of EP '960 because it discloses an invention in which the main nonaqueous solvent is 0% BL by volume, but yet produces no gas at high temperatures.

"To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art." M.P.E.P. § 2143.03, *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Because the reference does not disclose or suggest every feature of the claims, the rejection is improper. Accordingly, Applicants respectfully request the rejection be withdrawn.

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CONCLUSION

As the application is believed to be in condition for allowance, a favorable action and a Notice of Allowance are respectfully requested.

If the Examiner desires, Applicants welcome a telephone interview to expedite prosecution. The Commissioner is hereby authorized to deduct any applicable fees from Deposit Account No. 19-3140.

Respectfully submitted,

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